

## Hearing Stream 2 – 2-3 December 2024 – Submission

I made a submission on the Proposed District Plan (PDP). I have opted not to attend Hearing Stream 2, scheduled to commence Monday, 2 December 2024, and request that, in lieu of attendance, this written statement be tabled for the Hearing Committee's consideration, as well as the information already provided in my submissions. This submission provides an opinion on aspects of this Hearing Stream, backed up by evidence available to view in the public domain and requests further information from authors, officers, submitters, experts, and the Hearings Committee.

### Response to items in 001.-Section-42A-Report-Coastal-Environment

1. Point 94 Page 27 Submissions FS 400.168.77 and FS 214.168.77 - CE-O7 - The Officer's Recommendation for these items in Appendix B should change from Reject or Accept in Part to Accept and for Page 99 Page 28 FS351.99.79 and Appendix B to Reject, to ensure the relief sought for neighbours is retained and the adverse effects of network utilities on the natural character of the coastal environment are avoided, remedied, or mitigated so that this is more appropriately addressed on a case-by-case basis using the notification sections of the RMA and happens appropriately in a coordinated approach.
2. Appendix A Page 1 - Significant infrastructure, such as the port, the wastewater and stormwater, infrastructure, and the National Aquarium amongst others; - this suggested definition could significantly alter any sections of the Chapter depending on who is defined as 'others'. Can the author confirm who is defined as 'others'?
3. Appendix A Page 3 Point 7 - important significant infrastructure, such as the port, the wastewater and stormwater, infrastructure, and the National Aquarium amongst others; - this suggested could significantly alter any sections of the Chapter depending on who is defined as 'others'. Can the author confirm who is defined as 'others'?
4. Appendix A Page 6 - modified elements of the coast including the Port, transportation networks and other network utilities and infrastructure with a functional and operational requirement to locate within the coastal environment; - this suggested could significantly alter any sections of the Chapter depending on who is defined as 'other'. Can the author confirm who is defined as 'other'?

### Response to items in 002.-Section-42A-Report-Earthworks

1. Point 49 Page 16 and Point 53 Page 17 Submissions 63.3 and FS 113.63.3 - The Officer's Recommendation for these items in Appendix B should change from Reject or Defer to the Hearing of the Ecosystems and Indigenous Biodiversity Chapter (defer to ECO Chapter) to Accept in Part, to ensure the relief sought for neighbours is retained and the adverse effects of network utilities on the natural character of the coastal environment are avoided, remedied, or mitigated so that this is more appropriately addressed on a case-by-case basis using the notification sections of the RMA and happens appropriately in a coordinated approach.
2. Point 144 Page 29 Submissions 150.116, 150.117, 150.37 and FS559.150.116 and FS559.150.307 - The Officer's Recommendation for these items in Appendix B should change from Reject to Accept in Part to ensure the neighbours are advised of significant earthworks, relief sought for neighbours is retained and the adverse effects of earthworks are avoided, remedied, or mitigated.
3. Point 252 and 253 Page 42 Submissions 150.115 and FS559.150.307 and Submissions 289.175 and 178 - The Officer's Recommendation for these items in Appendix B should change from Reject to Accept in Part – any consequential amendments to current provisions in the PDP that references Sites of Significant to Māori, Indigenous Biodiversity, or Natural Hazards may not be fit for purpose based on the Plan Variation once this is notified to the public.
4. Appendix B Page 6 – Submission 196.78 - The Officer's Recommendation for the item in Appendix B should change from Accept in Part to Reject and FS 549.150 and FS 551.496.78 from Reject to Accept in Part – the Open Space Zones and Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone – 2000m<sup>3</sup> per hectare per site (or 2000m<sup>3</sup> per site as suggested by the Officer) is a significant amount compared to all other earthworks sites (the next largest amount is 200m<sup>3</sup> per hectare per site). The submitter states that it has been amended to ensure that they are consistent with the nature of the development anticipated in the zone. Can the Officer and submitter confirm how they will deal with any significant risks, how the adverse effects of earthworks will be avoided, remedied, or mitigated for an amount of earthworks that appears to be unprecedented in the area but is considered consistent with the nature of the development, how neighbours will be advised and public perception of favouring a zone/entity via the PDP process over the wellbeing of the Napier public? There may have been perceived or actual conflicts of interest, as listed in public domain documentation. Can the author confirm, was this noted as part of the process, and how has, and how will this continue to be mitigated?

### Response to items 004.-Section-42A-Report-Natural-Features-and-Landscapes

1. Point 36 Page 14 – The Officer notes Hearing Stream 2 NFL Recommendation 2: Accept in Part 198.40 & 253.46 in so far as no further changes occur in other parts of the plan. A report has been provided as part of the Hearing Stream 2 submissions - **HBAL-Napier-PDP-Hearing-Stream-2-Appendix-B-Viewshafts-Assessment**, suggesting View Shafts have changed and suggesting proposed new shafts. The provided report notes on Page 2 – We recognise that the land around the airport will change over time, in accordance with the publicly accessible Airport Masterplan. This Masterplan identifies the future development of "Commercial Airport Activity" that will support the overall airport operation. Therefore, it is unlikely any existing built form (some of which has been relatively recently constructed) will be removed, and more likely is that additional built form will be added (also including the proposed solar farm project). The Officer's Recommendation for the items in Appendix B should change from Accept in Part to Reject and FS 550.198.40 should change from Reject to Accept until the View Shafts Control Areas and Landscape Sensitive Control Areas have been agreed upon and can be protected from future development. Note later in the report, Point 65 Page 24 the Officer advises they recommend accepting the inclusion of view shafts in the assessment criteria for buildings and structures requiring resource consent, as it appropriately protects significant visual corridors and aligns with the objectives of the Natural Features and Landscapes chapter and provides a Summary of Recommendations Page 25 - Hearing Stream 2 NFL Recommendation 5: That the submission 171.33 and FS 347.171.33 is accepted, 189.28 and 289.94 are rejected, 289.95 is accepted in part. The Officer's Recommendation for Appendix B FS 519.171.33 should change from Accepted in Part to Accept. This is supported in the suggested change to Appendix A Page 2 - The Special Purpose Airport Zone is located within a Special Character Landscape Character Overlay however, the provisions relating to Special Character Landscapes do not apply within the Airport Zone. The protection of natural and cultural landscape values is achieved through View Shafts Control Areas and Landscape Sensitive Control Areas in the Airport Zone.
2. Page 17 - S32AA Assessment moving NFL items to the Network Utilities (NU) Chapter main disadvantage as advised by the Officer 'while it is crucial to meet the needs of infrastructure, this shift might slightly weaken the landscape protection in cases where utilities argue operational necessity'. Under Costs and Risks Page 21 Risk to Amenity Values – The primary risk is that allowing the functional needs of network utilities to be considered may lead to greater impacts on landscape values. However, this risk is mitigated by the requirement to avoid, remedy, or mitigate adverse effects. The Officer's Recommendation for

Appendix A is to avoid, remedy, or mitigate adverse effects in this section only. It is suggested that this wording should be incorporated into all chapters where an entity is affecting Napier landscape, including public and private property.

### Response to items 006.-Section-42A-Report-Subdivision

1. As originally mentioned in the Response to items in 002.-Section-42A-Report-Strategic-Direction to Point 246 Page 43 Policies SD-UFD-P1 246 the Officer notes concern regarding providing compact urban growth free from natural hazards. To ease this concern, the Officer notes that the Napier Spatial Picture and further to this the Future Development Strategy has been informed by the risk of natural hazards in advising on where areas for intensification are most appropriate. In addition, the Natural Hazards variation will consider what changes to provisions across the District Plan are needed to manage natural hazards. For this reason, I recommend rejecting the relief sought as the direction of the plan has taken natural hazard risk into account.  
The newly revised information from HBRC, which came out in October 2024, regarding the [Tsunami Hazards | Hawke's Bay Emergency Management](#) has changed since the PDP submissions closed, it is recommended that the Officer's Recommendation for this item in Appendix B change from Reject to Accept in Part. Additional information relating to Page 17 - 1% AEP means conditions that have a 1% chance of occurring in any given year (and average likelihood of occurring once every 100 years) – in the case of coastal flooding, these conditions are likely to happen during a storm event with large tides, waves and storm surge has changed since the PDP submissions closed, including [Extreme coastal flood maps for Aotearoa New Zealand | NIWA](#) and [Napier Hazards](#), and should be utilised when considering areas to subdivide including SUB-S8:Building Platform and the proposed change to All Zones point a. free from mapped overland flow paths and point b. free from inundation to a 1% AEP event.
2. Point 57 Page 24 198.181 seek an amendment to the subdivision chapter generally, to be consistent with the recommendations set out in NZS6805, future proof the Airport from reverse sensitivity effects and manage the potential amenity and health effects on the community. FS 560.198.181 opposes this relief. Point 64 Page 25 – The Officer notes the external document HBAL have referenced in their relief sought requires payment to access, I consider requiring additional costs on plan users to determine compliance to be overburdensome and inequitable. Accordingly, I recommend rejecting reference to this external document. Looking more broadly at the submission from HBAL in relation to subdivision, the submitter seeks the following relief for activities within the Outer Control Boundary o General Residential Zone density of one unit per 350m2 o Rural Lifestyle Zone density of one unit per 2500m2 o require provision of acoustic treatment (primarily through mechanical ventilation) for residential activities I note that the submitter seeks modifications to the Outer Control Boundary. This will be addressed as part of the Noise Chapter within Hearing Stream 4. Can the Officer confirm that Submission Point FS 560.198.181 will be moved to Hearing Stream 4 – this is currently listed as Noted only in Appendix B or the Officer's Recommendation for this item should change from Noted to Accept.
3. Point 65 Page 25 – The Officer advises I consider the plan as notified has responded to the relief sought by HBAL for the following reasons: o NOISE-S5: Acoustic treatment for activities sensitive to aircraft noise inside the Outer Control Boundary requires inside noise sensitive spaces to be acoustically designed to manage the potential effects from aircraft noise. o All subdivision is subject to SUB-AC1 which includes consideration of reverse sensitivity effects on existing land uses. This provision will direct plan users to respond to the needs of the Hawkes Bay Airport. Accordingly, I do not consider duplication within the subdivision chapter to be necessary. o The minimum vacant lot size in the GRZ is 350m2 (SUB-S1) and density controls limit one dwelling per site (GRZ-R1). In the event a reduced lot size is sought, the developer will need to demonstrate compliance with all other zone provisions and would be directed to consider both NOISE-S5 and SUB-AC1. Can the Officer confirm how the relief sought by HBAL has been responded to if the Noise chapter has not been through the Hearing process and the Outer Control Boundary have not been defined and approved?
4. Point 77 Page 28 – Submissions 150.112, FS 517.150.112, FS 549.150.112, FS 580.150.112 supports SUB-O5: Natural Hazards and seeks that it is used to deter medium density development away from the submitters perception of low-laying areas such as Onekawa and Pirimai. The Officer advises Point 82 Page 29 - The Napier Structure Plan, informed by an analysis of natural hazard risk vulnerabilities, already provides guidance on where higher density development is suitable. For these reasons, I recommend rejecting the relief sought in the above submissions and Point 102 Page 31 - 150.113 as supported by FS 549.150.113 - Point 127 Page 36 – SUB-14: Poorly Designed Subdivision Layouts - I recommend rejecting the relief sought as private property rights are not a guiding principle under the current RMA framework. The inclusion of this matter would unduly restrict subdivision and undermine the process of development as set out in the RMA, specifically the notification tests.  
The newly revised information from HBRC, which came out in October 2024, regarding the [Tsunami Hazards | Hawke's Bay Emergency Management](#) has changed since the PDP submissions closed, it is recommended that the Officer's Recommendation for this item in Appendix B should change from Reject to Accept in Part. Additional information relating to Page 17 - 1% AEP means conditions that have a 1% chance of occurring in any given year (and average likelihood of occurring once every 100 years) – in the case of coastal flooding, these conditions are likely to happen during a storm event with large tides, waves and storm surge has changed since the PDP submissions closed, including [Extreme coastal flood maps for Aotearoa New Zealand | NIWA](#) and [Napier Hazards](#), and should be utilised reference when considering areas to subdivide including SUB-S8:Building Platform and the proposed change to All Zones point a. free from mapped overland flow paths and point b. free from inundation to a 1% AEP event.
5. Point 81 Page 28 - FS 435.288.51 supports 288.51 in part, however, seeks the removal of the ability for subdivisions to mitigate the risk of natural hazards. The Officer advises in Point 84 Page 29 Regarding SUB-P15, I acknowledge the relief sought by FS 435.288.51 to remove the option for subdivision developments to mitigate natural hazard risks. However, I consider this approach impractical at present. Napier is exposed to a range of natural hazards, and it would be challenging to identify land entirely free from such risks. Accordingly, it is essential to provide a pathway for development that manages the effects of natural hazards. I recognise that, in some cases, avoiding subdivision in high-risk areas is a more sustainable approach, as it reduces the community's vulnerability to natural hazards. However, the determination of where subdivision is inappropriate will be addressed through the natural hazard chapter variation. In the interim, subdivision proposals must assess the feasibility of mitigating natural hazard risks, where avoidance is not possible. I therefore recommend rejecting the relief sought. Can the Officer confirm for clarity, based on the above, that subdivisions must mitigate the risk of natural hazards and that the Officer disagrees with FS 435.288.51 seeking the removal of the ability for subdivisions to mitigate the risk of natural hazards?
5. Point 117 Page 24 – The Officer notes taking a balanced approach to the submissions on shape factor, I acknowledge the need to ensure functional design at the subdivision stage for both MDR and HDR zones. Both zones require shape factor standards that can accommodate realistic building designs without fragmenting urban properties. For the MDR, I find the 8m x 15m shape factor appropriate. Can the Officer confirm if they are willing to deviate from pre-conceived views that may not fit the new national approach, as per Point 32 Page 13 of 001.-Section-42A-Report-Introductory-Chapters - Any changes to the District Plan required as a result of law changes will be carried out through future plan variations or changes (noted as P32 P13 throughout)?
6. Point 142 Page 44 - The Officer notes refer Appendix A Page 34 SUB-AC8: All infringements to standards (SUB-S1 - SUB-S18) The Council must be satisfied that: a. Granting consent for non-compliance with any standards is not contrary to the relevant objectives and policies of the Plan. b. Compliance with the Code of Practice for Land Development and Subdivision Infrastructure and bylaws is able to be achieved. The Council will have regard to: c. Inherent site considerations such as unusual size, shape, topography, substratum, vegetation, or flood susceptibility. d. Any additional special or unusual characteristic of the site that is relevant to the standards. e. The purpose of the standard, including whether an infringement will more effectively achieve the purpose having regard to the specific site characteristics. f. Where more than one standard will be infringed, the cumulative effects of all infringements considered together and Point 130 Page 27 - I concur with submitters in their opposition to SUB-AC8. In my view, the assessment criteria are already addressed elsewhere in the chapter, either under SUB-AC1 or within the specific matters of control and discretion. The repetition in SUB-AC8, as it relates to all infringed standards, provides no clear

benefit. Therefore, I recommend accepting the relief and deleting SUB-AC8 in its entirety. Can the author confirm the areas of the PDP where the assessment criteria will be already addressed elsewhere in the chapter, either under SUB-AC1 or within the specific matters of control and discretion, as the referenced area does not cover all these infringements to standards? The Officer's Recommendation should change from Accept to Reject and SUB-AC8 should be retained in its entirety.

7. Point 364 Page 102– The Officer notes Hearing Stream 2, Subdivision, Recommendation 50: that the relief sought by 257.44 is accepted to include all primary production activities as part of SUB-AC1. By removing the wording, this allows for helicopters and spray to be able to occur to all areas of Napier, as it is not limited to land-based activities only as management of potential reverse sensitivity effects on existing land uses. The <https://www.hbrc.govt.nz/assets/Document-Library/Information-Sheets/Air/Spray-Info-Sheet-At-Homev8.pdf> advises that Spray Plans are needed by commercial applications (i.e.. not domestic). Can the author advise for SUB-AC1 General, applies to all subdivision (including boundary adjustments) - how the effects to be mitigated under bb. including noise, odour, spray drift, dust, vibration, and traffic will be enforced if helicopters and horticultural sprayers are allowed to travel over all existing Napier land, as well as any potential new subdivisions (including boundary adjustments)? The Officer's Recommendation should change from Accept to Reject and SUB-AC1 should be retained in its entirety.
8. Page 150 – Appendix A – Recommended Amendments to Plan Provisions – Definitions of Urban and Rural Environment, Urban environment is defined in the NPS-UD Page 8 [Introductory-Guide-to-the-National-Policy-Statement-on-Urban-Development-2020.pdf](#) as any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that: (a) is, or is intended to be, predominantly urban in character; and (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people. The Officer's Recommendation to define the Urban Environment to any site contained within the following zones as listed on Page 150 of the Report may not fit this definition and it is suggested the Officer, and the Hearings Committee review this definition to ensure that it is fit for purpose.

#### **Response to items 007.-Section-42A-Report-Temporary-Activities**

1. Point 65 Page 17 – The Officer notes in response to submission 150.145, I consider this is inappropriate because councils are required to make provisions for the military activities and limiting these activities may hinder their ability to conduct necessary training in diverse environments. Military training is essential for national interests, and adding restrictions for temporary military training activities, especially regarding noise in residential areas, could slow down approvals and create additional administrative hurdles. While there is a legitimate concern for excessive noise affecting residents, I consider the requirement to comply with NOISE-R8 appropriately addresses these concerns. Can the author advise how the public will be notified of these events and who will be responsible for enforcing NOISE-R8? The Officer's Recommendation for the item in Appendix B should change from Reject to Accept.